Savannah District

COMPLETING THE POST-RAPANOS JD FORM

Anthony Jernigan

Why?

Corps must, whether exerting jurisdiction or not, complete a JD form on all actions except: all upland calls, 404 exemptions, RPs, and PGPs. The more information you provide with your JD request, PCN or Permit Application, the faster when can make decisions!!!

How Many Forms Do I Complete?

Savannah District

- One form for each “reach”
- One form for all isolated waters (if they’re all isolated for the same reason)
- You may have many forms for one “project”

What Sections Do I Fill Out?

Savannah District

DRAFT AS OF 16 JUL 2007																			
Aquatic Resource	**Sections of Approved JD Form That Must Be Completed To Document Jurisdiction**																		
	I	II	III.A.1	III.A.2	III.B.1	III.B.2	III.B.3	III.C	III.D.1	III.D.2	III.D.3	III.D.4	III.D.5	III.D.6	III.E	III.F	IV	EPA-RO	HQ-COE	HQ-EPA
	Backgrd	Summ.	CWA Analysis					Sig Nexus	Findings						Isolated *	No-Juris	Sources	Agency Coordination		
TNW with No Adjacent Wetlands	x	x	x						x								x			
TNW with Adjacent Wetlands	x	x	x	x					x								x			
RPW (Perennial) with No Adj/Abut Wetlands	x	x								x							x			
RPW (Perennial) with Abutting Wetlands	x	x								x		x					x			
RPW (Perennial) with Adjacent Wetlands	x	x			x	x	x	x		x			x			Maybe	x	x	Maybe	Maybe
RPW (Seasonal) with No Adjacent Wetlands	x	x			x			x **		x							x	x		
RPW (Seasonal) with Adj/Abut Wetlands	x	x			x	x		x **		x		x					x	x		
Non-RPW with No Adjacent Wetlands	x	x			x			x			x					Maybe	x	x	Maybe	Maybe
Non-RPW with Adjacent Wetlands	x	x			x	x	x	x			x			x		Maybe	x	x	Maybe	Maybe
Isolated Waters and/or Wetlands (NWP)	x	x													x	Maybe	x	x	x	x
Isolated Waters and/or Wetlands (Other)	x	x													x	Maybe	x	x	x	x
No Jurisdictional Waters (Upland)	x	B.2														x	x			

TNW = Traditional Navigable Water - All "navigable waters of the U.S." as defined by 33 CFR 329, those identified by a Federal court, and all other waters that are navigable-in-fact.
RPW = Relatively Permanent Water - NOT a TNW and that typically flows year round or has continuous flow at least "seasonally" (e.g. typically 3 months)
* Determinations within the Fourth Circuit must follow the May 1998 joint HQ guidance regarding the Wilson decision. (DRAFT - AWAITING FINAL DECISION BY HQUSACE)
** This significant nexus determination is a matter of policy and is not required as a matter of law.

* A copy of this form can be provided for you

JD Form Structure

I. Background Information
II. Summary of Findings
III. CWA Analysis
IV. Data Sources

Completing the JD Form

Savannah District

I. Background Information

II. Summary of Findings

III. CWA Analysis

IV. Data Sources

Background Information

Savannah District

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: County/parish/borough: City:
Center coordinates of site (lat/long in degree decimal format): Lat. °N, Long °W
Universal Transverse Mercator:
Name of nearest waterbody:
Name of nearest Traditional Navigable Water (TNW) into which the aquatic re
Name of watershed or Hydrologic Unit Code (HUC):
☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT
☐ Office (Desk) Determination. Date:
☐ Field Determination. Date(s):

Important

Named or "unnamed trib to"…
Use something significant

8-Digit HUC or equivalent

You can check both boxes.
List all site visits.

Completing the Form

I. Background Information

II. Summary of Findings

III. CWA Analysis

IV. Data Sources

Summary of Findings

Savannah District

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Pick List** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

- ☐ Waters subject to the ebb and flow of the tide.
- ☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign
  Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      - ☐ TNWs, including territorial seas
      - ☐ Wetlands adjacent to TNWs
      - ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      - ☐ No
      - ☐ We
      - ☐ We
      - ☐ We
      - ☐ Im
      - ☐ Isc

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   - ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review
     Explain: .

Pick List
Are no
Are
are and are not

Review Area refers to the area under consideration and can be synonymous with project area. However, in those cases where the project area requires the completion of additional JD forms, the review area will be confined to the area assessed on this particular JD form.

Pick List
Not Applicable.
1987 Delineation Manual
Established by OHWM.
Established by Outer Continental Shelf limits.
seaward limit of the territorial seas
within 3-mile baseline
Established by mean (average) high waters.
Established by Corps navigation study.
Not established at this time.

Summary of Findings

Savannah District

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Pick List** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

- ☐ Waters subject to the ebb and flow of the tide.
- ☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
  Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      - ☐ TNWs, including territorial seas
      - ☐ Wetlands adjacent to TNWs
      - ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      - ☐ Non-RPWs that flow directly or indirectly into TNWs
      - ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      - ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      - ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      - ☐ Impoundments of jurisdictional waters
      - ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/w**
   - ☐ Potentially juri
     Explain:

ONLY jurisdictional ones.

Non-Jurisdictional isolated goes here…use text template.

Completing the Form

I. Background Information

II. Summary of Findings

III. CWA Analysis

IV. Data Sources

Section III: CWA Analysis

Part A
Traditionally Navigable Waters and Their Adjacent Wetlands

- Determined to be navigable waters of the US under any of the tests set forth in 33 CFR 329 including Determinations by the Corps or by Federal Courts

- Determined to be “navigable-in-fact” under standards used by Federal Courts

CWA Analysis

TNWs and adjacent wetlands (III.A)

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

* Definition of adjacency will be covered later.

CWA Analysis

Savannah District

TNWs and adjacent wetlands (III.D.1)

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

CWA Analysis

Savannah District

Part B
NON-TNWs and Their Adjacent Wetlands

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

CWA Analysis

Savannah District

Part B

Perennial RPWs and Abutting Wetlands (III.D.2)

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

CWA Analysis

Savannah District

Part B

Perennial RPWs and Abutting Wetlands (III.D.4)

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

CWA Analysis

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

* If you are performing a significant nexus determination, you will fill out III.B

CWA Analysis

Savannah District

The Tributary (seasonal RPWs and non-RPWs)

(III.B.1)

1. **Characteristics of non-TNWs that flow di**

(i) **General Area Conditions:**

Watershed size: **Pick List** (pi

Drainage area: **Pick List** (p

Average annual rainfall: inches

Average annual snowfall: inches

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☐ Tributary flows through **Pick List** tributaries before entering TNW. (pick list) 2, 3, 4, 5, 6, 7, 8, 9, 10 or more

Pick List

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW[5]:

Tributary stream order, if known:

Describe the path to the TNW

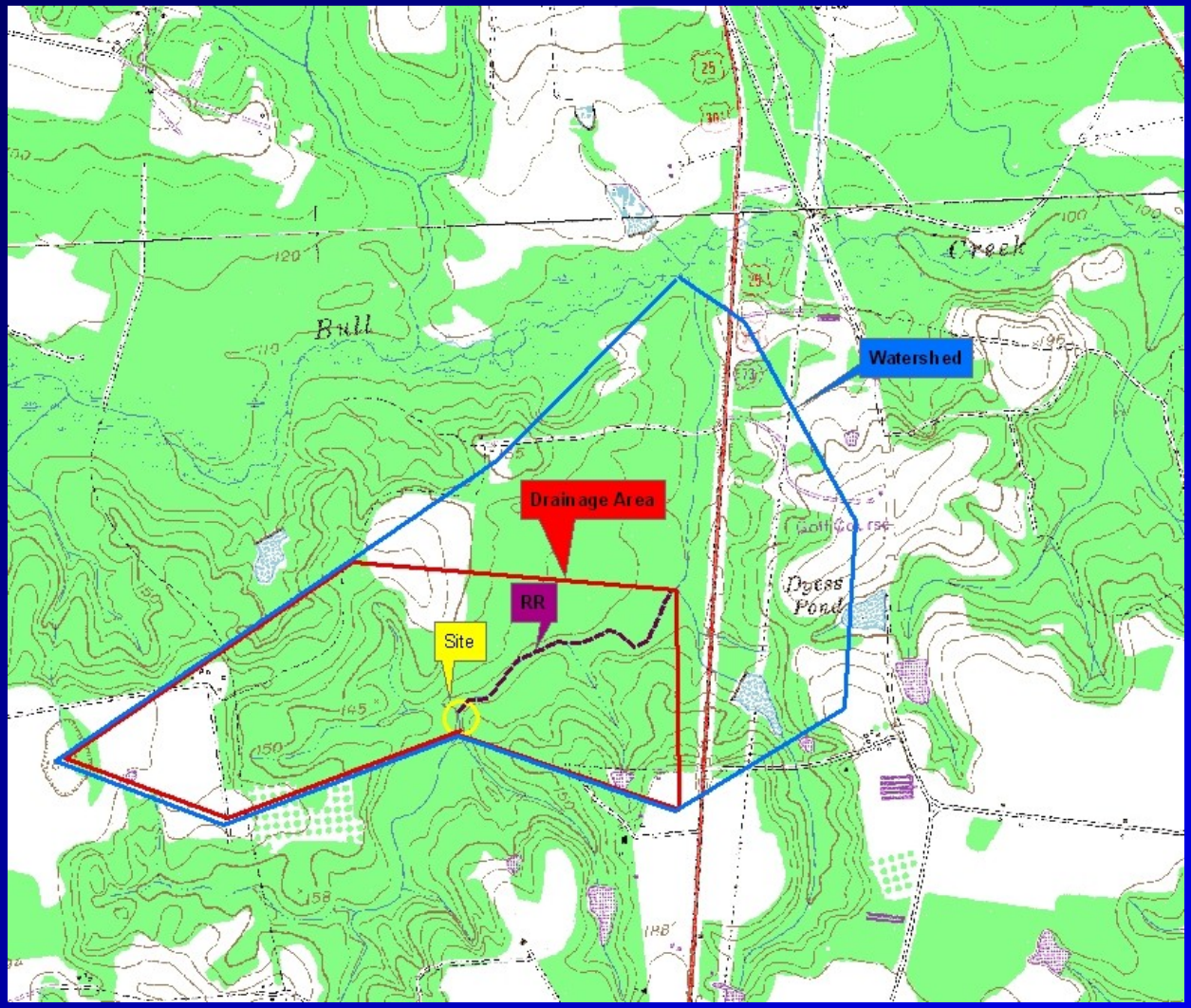
Drainage Area (smaller): The size of the local watershed draining into the relevant reach.

Watershed Area (larger): The size of the watershed draining into the tributary system from the next order tributary downstream of the relevant reach. (Not the HUC)

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Drainage Area & Watershed



CWA Analysis

Savannah District

The Tributary (seasonal RPWs and non-RPWs)

(III.B.1)

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List** (pick list) acres / square miles
Drainage area: **Pick List** (pick list) acres / square miles
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW. (pick list) 2, 3, 4, 5, 6, 7, 8, 9, 10 or more

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Pick List
1 (or less)
1-2
2-5
5-10
10-15
15-20
20-25
25-30
30 (or more)

Identify flow route to TNW[5]: .
Tributary stream order, if known: .

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

CWA Analysis

Savannah District

The Tributary (seasonal RPWs and non-RPWs)

(III.B.1)

(b) General Tributary Characteristics (check all that apply):

Tributary is:
- ☐ Natural
- ☐ Artificial (man-made). Explain: _____.
- ☐ Manipulated (man-altered). Explain: _____.

Tributary properties with respect to top of bank (estimate):
- Average width: _____ feet
- Average depth: _____ feet
- Average side slopes: **Pick List**

Primary tributary substrate composition (check all that apply):
- ☐ Silts
- ☐ Sands
- ☐ Concrete
- ☐ Cobbles
- ☐ Gravel
- ☐ Muck
- ☐ Bedrock
- ☐ Vegetation. Type/% cover: _____
- ☐ Other. Explain: _____.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: _____.

Presence of run/riffle/pool complexes. Explain: _____.

Tributary geometry: **Pick List** (pick list) relatively straight / meandering

Tributary gradient (approximate average slope): _____ %

CWA Analysis

Savannah District

The Tributary (seasonal RPWs and non-RPWs)

(III.B.1)

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List.** Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☐ Bed and banks

☐ OHWM[6] (check all indicators that apply):

- ☐ clear, natural line impressed on the bank
- ☐ changes in the character of soil
- ☐ shelving
- ☐ vegetation matted down, bent, or absent
- ☐ leaf litter disturbed or washed away
- ☐ sediment deposition
- ☐ water staining
- ☐ other (list):
- ☐ the presence of litter and debris
- ☐ destruction of terrestrial vegetation
- ☐ the presence of wrack line
- ☐ sediment sorting
- ☐ scour
- ☐ multiple observed or predicted flow events
- ☐ abrupt change in plant community

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:

- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:

- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

CWA Analysis

The Tributary (seasonal RPWs and non-RPWs)

(III.B.1)

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: .

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

CWA Analysis

Savannah District

The Wetlands (III.B.2)

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: _____ acres

Wetland type. Explain: _____.

Wetland quality. Explain: _____.

Project wetlands cross or serve as state boundaries. Explain: _____.

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: _____.

Surface flow is: **Pick List**

Characteristics: _____.

Subsurface flow: **Pick List**. Explain findings: _____.

☐ Dye (or other) test performed: _____.

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: _____.

☐ Ecological connection. Explain: _____.

☐ Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

Pick List
- Intermittent flow
- Ephemeral flow
- Perennial flow
- No Flow

Pick List
- Discrete
- Confined
- Discrete and confined
- Overland sheetflow
- Not present

CWA Analysis

Savannah District

The Wetlands (III.B.2)

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

CWA Analysis

Savannah District

The Wetlands (III.B.2)

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately ( ) acres in total are being considered in the cumulative analysis.

This should be all the adjacent wetlands within the relevant reach. We realize that these wetlands are often not in the project area. This should be a best estimate based on existing data sources.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

Factors to consider:

Chemical: Removal of herbicides, pesticides, runoff from roadways and parking areas, etc.

Physical: Sediment removal, flood storage, temperature regulation, groundwater recharge, etc.

Biological: Life-cycle support, organic carbon input, food chain support, rearing, foraging, nesting/spawning area, etc.

CWA Analysis

Savannah District

Significant Nexus (III.C)

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

* Significant nexus analysis will be covered in another presentation

CWA Analysis

CWA analysis requirements for a significant nexus

- Fill out III.C for appropriate situation (contact a project manager for a template)
- Verify you filled out correct sections of III.B
- Fill out the proper sections of III.D

CWA Analysis

Savannah District

Jurisdictional Waters

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain: .
- ☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters: .
- ☐ Wetlands: acres.

- Section III.E is for jurisdictional waters…do not fill out if you are claiming non-jurisdictional.

CWA Analysis

Savannah District

Non-Jurisdictional Waters

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: _____.
- ☐ Other: (explain, if not covered above): _____.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____ linear feet _____ width (ft).
- ☐ Lakes/ponds: _____ acres.
- ☐ Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- ☐ Wetlands: _____ acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____ linear feet, _____ width (ft).
- ☐ Lakes/ponds: _____ acres.
- ☐ Other non-wetland waters: _____ acres. List type of aquatic resource: _____.
- ☐ Wetlands: _____ acres.

* Section III.F is the section for non-jurisdictional waters. Do not forget to make sure you filled out II.B.2 with rational for claiming non-jurisdictional.

Supporting Data

- **Fill out Section IV**

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☐ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: .
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): .
  or ☐ Other (Name & Date): .
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

Data Submittals

Savannah District

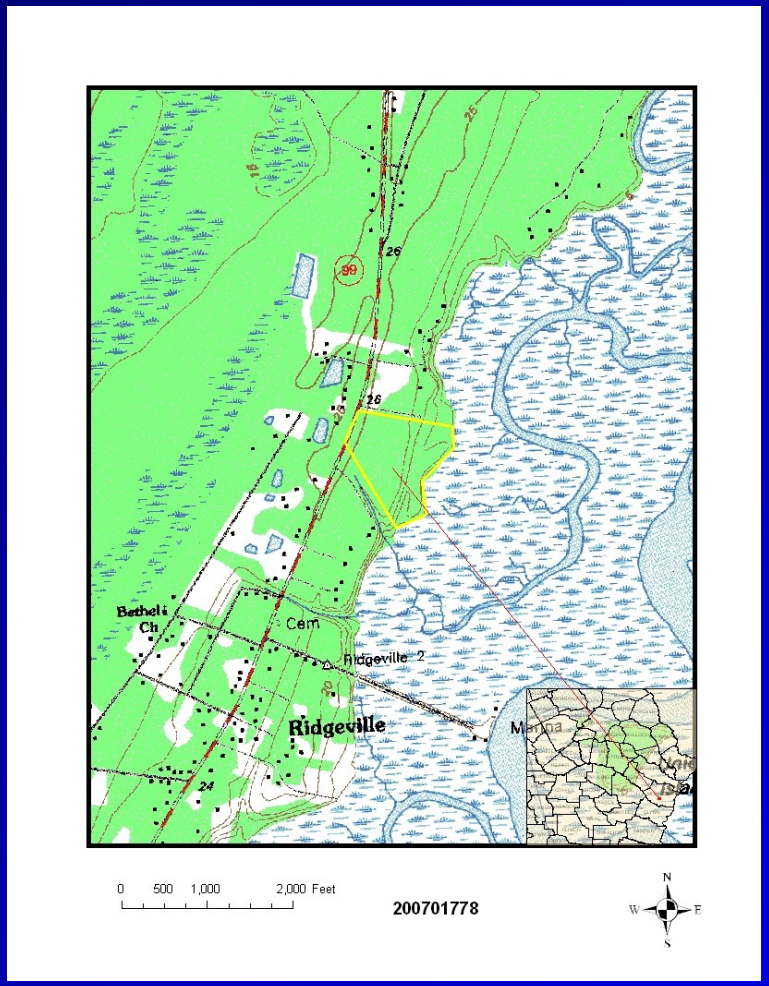
Documents We Like To See With Your JD Request

***The more information you give us, the faster you get your JD**

- Properly filled out *Request for Jurisdictional Determination Within the State of Georgia*
- Location map
- Stamped survey or properly completed GPS delineation
- Data forms
- The Following Maps

* Please submit everything on 8.5 x 11 paper

USGS Quad

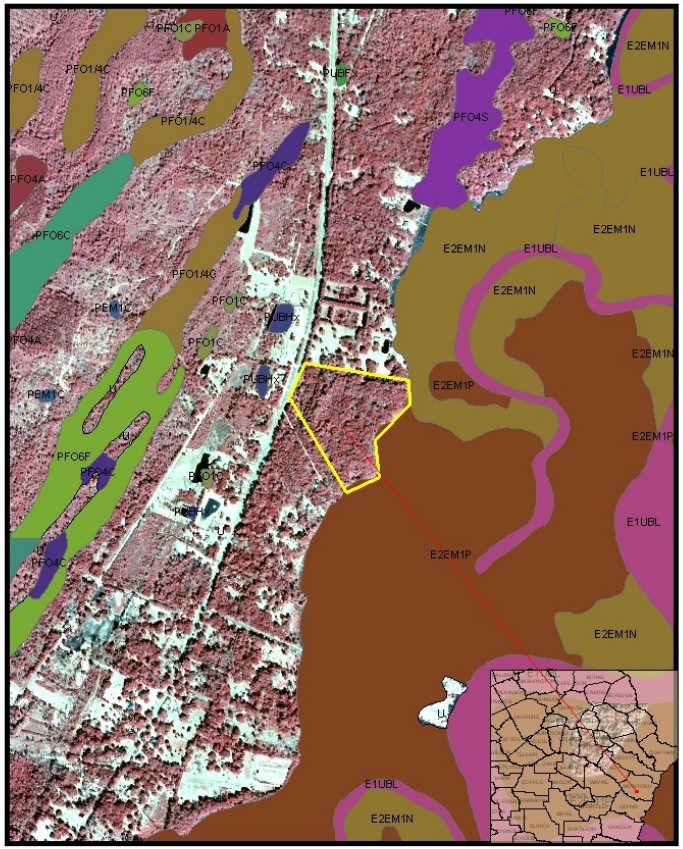


* **Please use appropriate scale for size of project.**

Infrared Aerial Photos

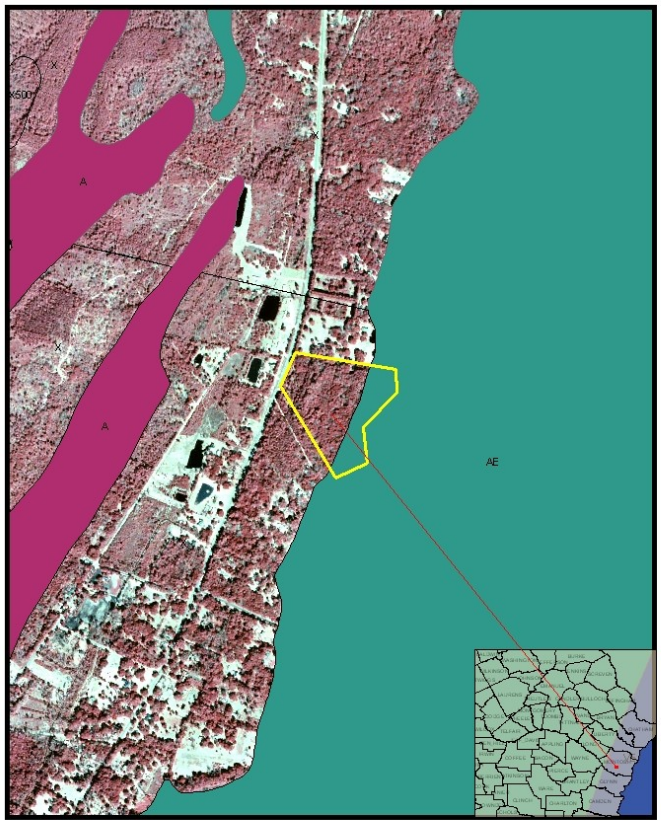
Savannah District

NWI



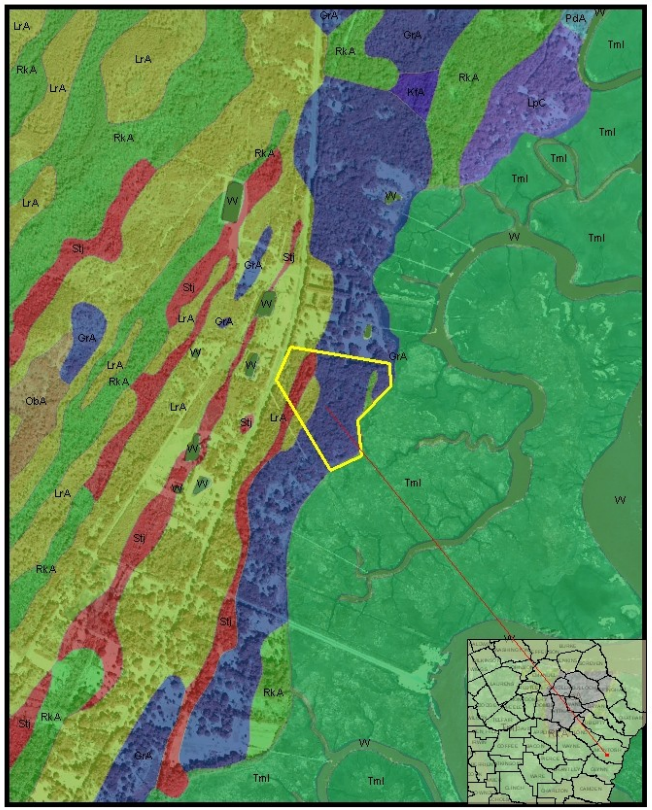
200701778 With NWI

Flood Zone Map



200701778 With 100 Year Flood Zone

Soil Map


LrA
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LpC
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0 495 990 1,980 Feet
200701778 Soil
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W
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S

Questions?

anthony.d.jernigan@usace.army.mil

"More paperwork? Pile it on, pile it on..."